

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

In re: Equifax, Inc. Customer Data Security Breach Litigation	)	MDL Docket No. 2800
	)	Case No.: 1:17-md-2800-TWT
	)	
	)	<b>ALL CASES</b>
	)	
	)	

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT  
OF THEIR MOTION FOR LIMITED RELIEF FROM DISCOVERY STAY  
AND ENTRY OF ORDER RELATING TO INTERVIEWS OF  
DEFENDANTS' FORMER EMPLOYEES**

In support of their motion seeking limited relief from the discovery stay [Doc. 488], Plaintiffs in the Consumer and Financial Institution Tracks respectfully submit the recently-published Majority Staff Report issued by the House Committee on Oversight and Government Reform. *See* STAFF OF H. COMM. ON OVERSIGHT & GOVERNMENT REFORM, 115<sup>TH</sup> CONGR., THE EQUIFAX DATA BREACH, available at <https://oversight.house.gov/wp-content/uploads/2018/12/Equifax-Report.pdf> (Dec. 10, 2018) (hereinafter, the “House Oversight Report” or the “Report”). A copy of the Report is attached as Exhibit A. The Report establishes the scope of Equifax’s prior document and witness production, the direct relevance of this information to the issues before this Court, and the efficiencies that will be gained from permitting the limited discovery Plaintiffs seek.

In a press release announcing the Report, the Committee stated that after a 14-month investigation, it “reviewed over 122,000 pages of documents [and] conducted transcribed interviews with three former Equifax employees directly involved with IT,” among other measures.<sup>1</sup> The Report also repeatedly cites to the trove of documents “on file with Committee.” The documents include the “Mandiant Report,”<sup>2</sup> witness interview transcripts, emails, incident response charts, security audits, internal policies and procedures, expired digital security certificates, and “Project Sierra”<sup>3</sup> and PCI Compliance materials. *See generally* Report. All of these documents are highly relevant to this litigation.

Based on its review of these documents, the Committee compiled information regarding many of the issues germane to this case, as demonstrated by the various sections of its Report, which are entitled: Anatomy of the Equifax Data Breach; Equifax Notifies the Public of the Massive Data Breach; Specific Points of Failure: Equifax’s Information Technology and Security Management; and Equifax

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<sup>1</sup> H. COMM. ON OVERSIGHT & GOVERNMENT REFORM, *Committee Releases Report Revealing New Information on Equifax Data Breach*, available at <https://oversight.house.gov/report/committee-releases-report-revealing-new-information-on-equifax-data-breach/> (Dec. 10, 2018), attached as Exhibit B hereto.

<sup>2</sup> Via King and Spalding, Equifax engaged the cybersecurity firm Mandiant to conduct a forensic review of the breach. (Report, at 10).

<sup>3</sup> “Equifax assigned the code name Project Sierra to the incident response efforts.” (Report, at 37).

Remediation Efforts. *See* Report, Table of Contents, at 5-6.

The Committee's conclusions drawn from the documents and witness interviews directly support Plaintiffs' contentions in this case, including:

- As one of the three major reporting agencies that amass large amounts of personal data, Equifax had a "heightened responsibility to protect consumer data by providing best-in-class data security." *Id.* at 2;
- Equifax "failed to implement an adequate security program to protect this sensitive data." *Id.*;
- The breach was "entirely preventable," *id.*, and had "the company taken action to address its observable security issues prior to this cyberattack, the data breach could have been prevented." *Id.* at 4; and,
- The breach was caused in part by outdated security systems and an unaccountable corporate management structure. *Id.*

The Report also makes evident that the information Equifax provided to the Committee would be enormously useful in identifying custodians with relevant documents and designing the terms to be used in electronic searches.<sup>4</sup>

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<sup>4</sup> The Report also supports Plaintiffs' claims in this case that they have viable negligence per se claims grounded upon Section 5 of the Federal Trade Commission Act. The Committee noted that the FTC has authority under Section 5 to pursue data security violations against companies such as Equifax and, in fact, "has brought over

For efficiency's sake, Equifax should produce to Plaintiffs the documents it has already produced to Congress and regulatory authorities so that the parties can meaningfully negotiate search terms, custodians and other issues that the Court has directed be done before full discovery commences. Further, it took the House Oversight Committee fourteen months to issue the Report. Presumably, a meaningful review of the documents in the civil litigation will also take months to conduct. There is no need to impose this additional delay in these cases of great public importance. In contrast, Equifax has articulated no burden it would incur in reproducing the documents to Plaintiffs, other than vague references to the costs of locating and reviewing the documents. (*See* Doc. 503, at 16). However, given that Equifax already has located and reviewed these highly relevant, responsive documents and produced them to government authorities, Equifax's burden arguments should be rejected.

In short, the Committee's Report demonstrates that the documents Equifax has already produced to governmental authorities – documents Plaintiffs specifically seek through their motion for limited relief from the discovery stay – are directly

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60 cases against companies for engaging in unfair or deceptive practices by failing to adequately protect consumers' personal data." Report at 20.

relevant to the claims in this case and that their immediate production to Plaintiffs would enhance the parties' ability to comply with this Court's case management orders.

Respectfully submitted this 12th day of December, 2018.

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**CERTIFICATE OF SERVICE**

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